

HOUSE BILL No. 1117

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-28-1; IC 14-28-3-3.

Synopsis: Crawlspace standards in floodways. Establishes crawlspace construction standards for an abode or a residence constructed or reconstructed in a floodway. Requires the natural resources commission to adopt the standards by rule. Prohibits a county or municipality from adopting ordinances concerning crawlspace construction standards that are more restrictive than the minimum rules adopted by the natural resources commission.

Effective: July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Natural Resources.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1117

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 14-28-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. Sections 20, 21, 22, 23, 24, and 25 of this chapter do not apply to any of the following:

(1) An abode or a residence constructed on land that meets the following conditions:

(A) Is between the 791.0 mile marker and the 791.5 mile marker on the Ohio River.

(B) Is adjacent to a recreational area.

(C) Has been or may be filled to or above an elevation of three hundred seventy-eight (378) feet above sea level.

(D) Is properly protected by riprap in a manner that minimizes the possibility of erosion by river currents.

(2) An abode or a residence if the following conditions are met:

(A) The abode or residence is rebuilt upon the area of the original foundation and is substantially the same configuration as the former abode or residence.

(B) The abode or residence was unintentionally destroyed by

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a means other than floodwater.

(C) The rebuilding of the abode or residence is begun within one (1) year and completed within two (2) years after the destruction of the former abode or residence.

(D) The abode or residence is located in the floodway of a stream having a watershed upstream from the abode or residence of less than fifteen (15) square miles in area.

(E) The lowest floor of the rebuilt abode or residence, including the basement, is at or above the one hundred (100) year frequency flood elevation if the abode or residence was totally destroyed.

(F) A variance is obtained from the county or municipality for the lowest floor of the abode or residence to be below the one hundred (100) year frequency flood elevation if the damage to the former abode or residence is less than one hundred percent (100%).

(G) An ordinance allowing the rebuilding of an abode or a residence is adopted by any of the following:

(i) The legislative body of the city or town in which the abode or residence is located.

(ii) The legislative body of the county in which the abode or residence is located if the abode or residence is not located in a city or town.

(H) The crawlspace of the abode or residence complies with construction standards adopted by the commission.

SECTION 2. IC 14-28-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) This section does not apply to the reconstruction of a residence located in a boundary river floodway.

(b) A person may not begin the reconstruction of an abode or a residence that:

(1) is located in a floodway; and

(2) is substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1993) by a means other than floodwater;

unless the person has obtained a permit under this section or section 26.5 of this chapter.

(c) A person who desires to reconstruct an abode or a residence described in subsection (b) must file with the director a verified written application for a permit accompanied by a nonrefundable fee of fifty dollars (\$50). An application submitted under this section must do the following:

(1) Set forth the material facts concerning the proposed

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reconstruction.

(2) Include the plans and specifications for the reconstruction.

(d) The director may issue a permit to an applicant under this section only if the applicant has clearly proven all of the following:

(1) The abode or residence will be reconstructed:

(A) in the area of the original foundation and in substantially the same configuration as the former abode or residence; or

(B) in a location that is, as determined by the director, safer than the location of the original foundation.

(2) The lowest floor elevation of the abode or residence as reconstructed, including the basement, will be at or above the one hundred (100) year flood elevation.

(3) The abode or residence will be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(4) The abode or residence will be reconstructed with materials resistant to flood damage.

(5) The abode or residence will be reconstructed by methods and practices that minimize flood damages.

(6) The abode or residence will be reconstructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located to prevent water from entering or accumulating within the components during conditions of flooding.

(7) The abode or residence, as reconstructed, will comply with the minimum requirements for floodplain management set forth in 44 CFR Part 60, as in effect on January 1, 1993.

(8) The crawlspace of the abode or residence, as reconstructed, will comply with construction standards adopted by the commission.

(e) When granting a permit under this section, the director may establish and incorporate into the permit certain conditions and restrictions that the director considers necessary for the purposes of this chapter.

(f) A permit issued by the director under this section is void if the reconstruction authorized by the permit is not commenced within two (2) years after the permit is issued.

(g) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);

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that is affected by the permit.

(h) The person to whom a permit is issued under this section shall post and maintain the permit at the site of the reconstruction authorized by the permit.

(i) A person who knowingly:

(1) begins the reconstruction of an abode or a residence in violation of subsection (b);

(2) violates a condition or restriction of a permit issued under this section; or

(3) fails to post and maintain a permit at a reconstruction site in violation of subsection (h);

commits a Class B infraction. Each day that the person is in violation of subsection (b), the permit, or subsection (h) constitutes a separate infraction.

SECTION 3. IC 14-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) All counties and municipalities are encouraged and authorized to delineate and regulate all flood hazard areas within their respective jurisdictions by adopting and implementing all necessary ordinances, rules, and regulations under procedures established by law. For ordinances, rules, and regulations adopted after June 30, 1974, the ordinances, rules, and regulations:

(1) may not be less restrictive than the minimum rules of the commission adopted under section 2 of this chapter; and

(2) must be approved by the commission before the effective date.

(b) **Except as provided in subsection (c),** this chapter does not prevent a county or municipality from adopting ordinances, rules, and regulations that are more restrictive than the minimum rules adopted by the commission.

(c) A county or municipality may not adopt ordinances, rules, or regulations concerning crawlspace construction standards that are more restrictive than the rules concerning crawlspace construction standards that are adopted by the commission.

SECTION 4. [EFFECTIVE JULY 1, 2005] (a) **Notwithstanding IC 14-28-1-19(2)(H) and IC 14-28-1-24(d)(8), both as added by this act, the standards prepared by the Federal Insurance and Mitigation Administration of the Federal Emergency Management Agency, as provided in Technical Bulletin 11-04, are the crawlspace construction standards that must be complied with to satisfy IC 14-28-1-19(2)(H) and IC 14-28-1-24(d)(8), both as added by this act.**

(b) **Before July 1, 2006, the natural resources commission shall**

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1 **adopt rules under IC 4-22-2 concerning crawlspace construction**
2 **standards that follow the standards prepared by the Federal**
3 **Insurance and Mitigation Administration of the Federal**
4 **Emergency Management Agency, as provided in Technical Bulletin**
5 **11-04 and any subsequent technical bulletins. Rules adopted under**
6 **this subsection become effective July 1, 2006.**

7 **(c) This SECTION expires July 2, 2006.**

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